

CANON 1

**A JUDGE SHALL UPHOLD THE INTEGRITY  
AND INDEPENDENCE OF THE JUDICIARY**

**An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective. A judicial decision or administrative act later determined to be incorrect legally is not itself a violation of this Code.**

**ADVISORY COMMITTEE COMMENTARY**

*Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law\* and the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violations of this Code diminish public confidence in the judiciary and thereby do injury to the system of government under law.*

*The basic function of an independent and honorable judiciary is to maintain the utmost integrity in decision making, and this Code should be read and interpreted with that function in mind.*

CANON 2

**A JUDGE SHALL AVOID IMPROPRIETY AND THE  
APPEARANCE OF IMPROPRIETY IN ALL OF THE  
JUDGE'S ACTIVITIES**

**A. Promoting Public Confidence**

**A judge shall respect and comply with the law\* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.**

*ADVISORY COMMITTEE COMMENTARY*

*Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by other members of the community and should do so freely and willingly.*

*The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge.*

*The test for the appearance of impropriety is whether a person aware of the facts might reasonably entertain a doubt that the judge would be able to act with integrity, impartiality, and competence.*

*See also Commentary under Canon 2C.*

**B. Use of the Prestige of Judicial Office**

**(1) A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment, nor shall a judge convey or permit others to convey the impression that any individual is in a special position to influence the judge.**

**(2) A judge shall not lend the prestige of judicial office to advance the pecuniary or personal interests of the judge or others; nor shall a judge testify voluntarily as a character witness. A judge shall not initiate communications with a sentencing judge or a probation or corrections officer, but may provide them with information for the record in response to an official request. A judge may initiate communications with a probation or corrections**

officer concerning a member of the judge's family,\* provided the judge is not identified as a judge in the communication.

**ADVISORY COMMITTEE COMMENTARY**

*A strong judicial branch, based on the prestige which comes from effective and ethical performance, is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Judges should distinguish between proper and improper use of the prestige of office in all of their activities.*

*A judge must avoid lending the prestige of judicial office for the advancement of the private interests of the judge or others. For example, a judge must not use the judicial position to gain advantage in a civil suit involving a member of the judge's family;\* or use his or her position to gain deferential treatment when stopped by a police officer for a traffic offense.*

*As to the use of a judge's title to identify a judge's role in the presentation and creation of legal education programs and materials, see Commentary to Canon 4B. In contracts for publication of a judge's writings, a judge should retain control over the advertising, to the extent feasible, to avoid exploitation of the judge's office. As to the acceptance of awards, see Canon 4D(6)(c) and Commentary.*

*A judge must not testify as a character witness without being subpoenaed because to do so may lend the prestige of the judicial office in support of the party for whom the judge testifies. A judge may provide information on behalf of a lawyer or a judge involved in disciplinary proceedings, and shall provide information to disciplinary bodies when officially requested to do so. This Canon does not afford judges a privilege against testifying in response to any official summons.*

*This Canon does not preclude internal discussions among judges regarding the application of substantive or procedural provisions of law to any pending criminal or civil case.*

**(3) A judge may respond to judicial selection inquiries, provide recommendations (including a general character reference, relating to the evaluation of persons being considered for a judgeship) and otherwise participate in the process of judicial selection.**

**(4) A judge shall not use the judicial title in any written communication intended to advance the personal or pecuniary interest of the judge. A judge may serve as a reference or provide a letter of recommendation only if based on the judge's personal knowledge of the individual. These written communications**

may include the judge's title and be written on stationery that uses the judicial title.

### C. Membership in Organizations

A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, national origin, or sexual orientation.

This Canon does not apply to membership in a religious organization or an official military organization of the United States. So long as membership does not violate Canon 4A, this Canon does not bar membership in a nonprofit youth organization.\*

#### ADVISORY COMMITTEE COMMENTARY

*Membership of a judge in an organization that practices invidious discrimination gives rise to a perception that the judge's impartiality is impaired. This Canon exempts membership in religious and military organizations and, subject to Canon 4A, does not bar membership in nonprofit youth organizations.\* These exemptions are necessary because membership in United States military organizations is subject to current valid military regulations, and religious beliefs are constitutionally protected. Membership in nonprofit youth organizations\* is not barred to accommodate individual rights of intimate association and free expression. See also Canon 3E and its Commentary concerning disqualification and disclosure.*

*Canon 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership rolls but rather depends on how the organization selects members and other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, national origin, or sexual orientation persons who would otherwise be admitted to membership.*

*Although Canon 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion, national origin, or sexual orientation, a judge's membership in an organization that engages in any discriminatory membership practices prohibited by law\* also violates Canon 2 and*

1 *Canon 2A and gives the appearance of impropriety. In addition, it would be a*  
2 *violation of Canon 2 and Canon 2A for a judge to arrange a meeting at a club that*  
3 *the judge knows practices such invidious discrimination or for the judge to use such*  
4 *a club regularly. Moreover, public manifestation by a judge of the judge's knowing*  
5 *approval of invidious discrimination on any basis gives the appearance of*  
6 *impropriety under Canon 2 and diminishes public confidence in the integrity and*  
7 *impartiality of the judiciary in violation of Canon 2A.*

8  
9 **Canon 2C amended effective June 18, 2003.**

CANON 3

**A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL  
OFFICE IMPARTIALLY AND DILIGENTLY**

**A. Judicial Duties in General**

**All of the judicial duties prescribed by law\* shall take precedence over all other activities of every judge. In the performance of these duties, the following standards apply.**

**B. Adjudicative Responsibilities**

**(1) A judge shall hear and decide all matters assigned to the judge except those in which he or she is disqualified.**

*ADVISORY COMMITTEE COMMENTARY*

*Canon 3B(1) is based upon the affirmative obligation contained in the Code of Civil Procedure.*

**(2) A judge shall be faithful to the law\* regardless of partisan interests, public clamor, or fear of criticism, and shall maintain professional competence in the law.\***

**(3) A judge shall require\* order and decorum in proceedings before the judge.**

**(4) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require\* similar conduct of lawyers and of all court staff and personnel\* under the judge's direction and control.**

**(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.**

*ADVISORY COMMITTEE COMMENTARY*

*A judge must refrain from speech, gestures, or other conduct that could reasonably be perceived as sexual harassment.*

(6) A judge shall require\* lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status against parties, witnesses, counsel, or others. This Canon does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation, socioeconomic status or other similar factors are issues in the proceeding.

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, full right to be heard according to law.\* A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding, except as follows:

(a) A judge may obtain the advice of a disinterested expert on the law\* applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(b) A judge may consult with court personnel\* whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(c) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(d) A judge may initiate ex parte communications, where circumstances require, for scheduling, administrative purposes, or emergencies that do not deal with substantive matters provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(e) A judge may initiate or consider any ex parte communication when expressly authorized by law\* to do so.

ADVISORY COMMITTEE COMMENTARY

*The proscription against communications concerning a proceeding includes communications from lawyers, law professors, and other persons who are not participants in the proceeding, except to the limited extent permitted by the exceptions noted in Canon 3B(7).*

*This Canon does not prohibit a judge from initiating or considering an ex parte communication when authorized to do so by stipulation of the parties.*

*This Canon does not prohibit court staff from communicating scheduling information or carrying out similar administrative functions.*

*An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file an amicus curiae brief.*

*A judge must not independently investigate facts in a case and must consider only the evidence presented, unless otherwise authorized by law.\* For example, a judge is statutorily authorized to investigate and consult witnesses informally in small claims cases.*

**(8) A judge shall dispose of all judicial matters fairly, promptly, and efficiently.**

#### **ADVISORY COMMITTEE COMMENTARY**

*The obligation of a judge to dispose of matters promptly and efficiently must not take precedence over the judge's obligation to dispose of the matters fairly and with patience. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts.*

*Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to require\* that court officials, litigants, and their lawyers cooperate with the judge to that end.*

**(9) A judge shall not make any public comment about a pending or impending proceeding in any court, and shall not make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require\* similar abstention on the part of court personnel\* subject to the judge's direction and control. This Canon does not prohibit judges from making statements in the course of their official duties or from explaining for public information the procedures of the court, and does not apply to proceedings in**



which the judge is a litigant in a personal capacity. Other than cases in which the judge has personally participated, this Canon does not prohibit judges from discussing in legal education programs and materials, cases and issues pending in appellate courts. This educational exemption does not apply to cases over which the judge has presided or to comments or discussions that might interfere with a fair hearing of the case.

*ADVISORY COMMITTEE COMMENTARY*

*The requirement that judges abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition. This Canon does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where the judge is a litigant in an official capacity, the judge must not comment publicly.*

**(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.**

*ADVISORY COMMITTEE COMMENTARY*

*Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.*

**(11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information\* acquired in a judicial capacity.**

*ADVISORY COMMITTEE COMMENTARY*

*This Canon makes it clear that judges cannot make use of information from affidavits, jury results, or court rulings, before they become public information, in order to gain a personal advantage.*

**C. Administrative Responsibilities**

**(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and shall cooperate with other judges and court officials in the administration of court business.**

**(2) A judge shall require\* staff and court personnel\* under the judge's direction and control to observe appropriate standards of conduct and to refrain from manifesting bias or prejudice based upon race, sex, religion,**

national origin, disability, age, sexual orientation, or socioeconomic status in the performance of their official duties.

(3) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to ensure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

(4) A judge shall not make unnecessary court appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees above the reasonable value of services rendered.

#### ADVISORY COMMITTEE COMMENTARY

*Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters, receivers, and guardians, and personnel such as clerks, secretaries, court reporters, court interpreters, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by Canon 3C(4).*

#### D. Disciplinary Responsibilities

(1) Whenever a judge has reliable information that another judge has violated any provision of the Code of Judicial Ethics, the judge shall take or initiate appropriate corrective action, which may include reporting the violation to the appropriate authority.\*

(2) Whenever a judge has personal knowledge that a lawyer has violated any provision of the Rules of Professional Conduct, the judge shall take appropriate corrective action.

(3) A judge who is charged by prosecutorial complaint, information, or indictment or convicted of a crime in the United States, other than one that would be considered a misdemeanor not involving moral turpitude or an infraction under California law, but including all misdemeanors involving violence (including assaults), the use or possession of controlled substances, the misuse of prescriptions, or the personal use or furnishing of alcohol, shall promptly and in writing report that fact to the Commission on Judicial Performance.

#### ADVISORY COMMITTEE COMMENTARY

*Appropriate corrective action could include direct communication with the judge or lawyer who has committed the violation, other direct action if available, or*

1 *a report of the violation to the presiding judge, appropriate authority,\* or other*  
 2 *agency or body. Judges should note that in addition to the action required by*  
 3 *Canon 3D(2), California law imposes additional reporting requirements regarding*  
 4 *lawyers.*

5  
 6 **(Canon 3D (3) amended effective March 4, 1999; previously amended**  
 7 **effective June 19, 1997; adopted effective January 15, 1996.)**

8  
 9 **E. Disqualification.**

10  
 11 **(1) A judge shall disqualify himself or herself in any proceeding in which**  
 12 **disqualification is required by law.**

13  
 14 **(2) In all trial court proceedings, a judge shall disclose on the record**  
 15 **information that the judge believes the parties or their lawyers might consider**  
 16 **relevant to the question of disqualification, even if the judge believes there is no**  
 17 **actual basis for disqualification.**

18  
 19 **(3) An appellate justice shall disqualify himself or herself in any**  
 20 **proceeding if for any reason: (i) the justice believes his or her recusal would**  
 21 **further the interest of justice; or (ii) the justice substantially doubts his or her**  
 22 **capacity to be impartial; or (iii) the circumstances are such that a reasonable**  
 23 **person aware of the facts would doubt the justice's ability to be impartial.**  
 24 **Disqualification is required in the following instances:**

25  
 26 **(a) The appellate justice has appeared or otherwise served as a lawyer in**  
 27 **the pending matter, or has appeared or served as a lawyer in any other matter**  
 28 **involving any of the same parties if that other matter related to the same**  
 29 **contested issues of fact and law as the present matter.**

30  
 31 **(b) Within the last two years, (i) a party to the proceeding, or an officer,**  
 32 **director or trustee thereof, either was a client of the justice when the justice was**  
 33 **engaged in the private practice of law or was a client of a lawyer with whom the**  
 34 **justice was associated in the private practice of law; or (ii) a lawyer in the**  
 35 **proceeding was associated with the justice in the private practice of law.**

36  
 37 **(c) The appellate justice represented a public officer or entity and**  
 38 **personally advised or in any way represented such officer or entity concerning**  
 39 **the factual or legal issues in the present proceeding in which the public officer**  
 40 **or entity now appears.**

41  
 42 **(d) The appellate justice, or his or her spouse, or a minor child residing**  
 43 **in the household, has a financial interest or is a fiduciary who has a financial**

1 interest in the proceeding, or is a director, advisor, or other active participant  
 2 in the affairs of a party. A financial interest is defined as ownership of more  
 3 than a 1 percent legal or equitable interest in a party, or a legal or equitable  
 4 interest in a party of a fair market value exceeding one thousand five hundred  
 5 dollars. Ownership in a mutual or common investment fund that holds securities  
 6 does not itself constitute a financial interest; holding office in an educational,  
 7 religious, charitable, fraternal or civic organization does not confer a financial  
 8 interest in the organization's securities; and a proprietary interest of a  
 9 policyholder in a mutual insurance company or mutual savings association or  
 10 similar interest is not a financial interest unless the outcome of the proceeding  
 11 could substantially affect the value of the interest. A justice shall make  
 12 reasonable efforts to keep informed about his or her personal and fiduciary  
 13 interests and those of his or her spouse and of minor children living in the  
 14 household.

15  
 16 (e) The justice or his or her spouse, or a person within the third degree of  
 17 relationship to either of them, or the spouse thereof, is a party or an officer,  
 18 director or trustee of a party to the proceeding, or a lawyer or spouse of a  
 19 lawyer in the proceeding is the spouse, former spouse, child, sibling, or parent  
 20 of the justice or of the justice's spouse, or such a person is associated in the  
 21 private practice of law with a lawyer in the proceeding.

22  
 23 (f) The justice (i) served as the judge before whom the proceeding was  
 24 tried or heard in the lower court, (ii) has a personal knowledge of disputed  
 25 evidentiary facts concerning the proceeding, or (iii) has a personal bias or  
 26 prejudice concerning a party or a party's lawyer. The justice's spouse or a  
 27 person within the third degree of relationship to the justice or his or her spouse,  
 28 or the person's spouse, was a witness in the proceeding.

29  
 30 (g) A temporary or permanent physical impairment renders the judge  
 31 unable properly to perceive the evidence or conduct the proceedings.

32  
 33 **ADVISORY COMMITTEE COMMENTARY**

34 *Canon 3(E)(1) sets forth the general duty to disqualify applicable to a judge*  
 35 *of any court. Sources for determining when recusal or disqualification is*  
 36 *appropriate may include the applicable provisions of the Code of Civil Procedure,*  
 37 *other provisions of the Code of Judicial Ethics, the Code of Conduct for United*  
 38 *States Judges, the American Bar Association's Model Code of Judicial Conduct,*  
 39 *and related case law.*

40  
 41 *The introductory paragraph to Canon 3E(3) sets forth the general standards*  
 42 *for recusal of an appellate justice. The term "appellate justice" includes justices of*  
 43 *both the Courts of Appeal and the Supreme Court. Generally, the provisions*

1 concerning disqualification of an appellate justice are intended to assist justices in  
2 determining whether recusal is appropriate and to inform the public why recusal  
3 may occur.

4  
5 However, the rule of necessity may override the rule of disqualification. For  
6 example, a judge might be required to participate in judicial review of a judicial  
7 salary statute, or might be the only judge available in a matter requiring judicial  
8 action, such as a hearing on probable cause or a temporary restraining order. In  
9 the latter case, the judge must promptly disclose on the record the basis for possible  
10 disqualification and use reasonable efforts to transfer the matter to another judge  
11 as soon as practicable.

12  
13 In some instances, membership in certain organizations may have the  
14 potential to give an appearance of partiality, although membership in the  
15 organization generally may not be barred by Canon 2C, Canon 4, or any other  
16 specific canon. A judge holding membership in an organization should disqualify  
17 himself or herself whenever doing so would be appropriate in accordance with  
18 Canon 3E(1) or 3E(3) or statutory requirements. In addition, in some  
19 circumstances, the parties or their lawyers may consider a judge's membership in  
20 an organization relevant to the question of disqualification, even if the judge  
21 believes there is no actual basis for disqualification. In accordance with this  
22 Canon, a judge should disclose to the parties his or her membership in an  
23 organization, in any proceeding in which the judge believes the parties or their  
24 lawyers might consider this information relevant to the question of disqualification,  
25 even if the judge concludes there is no actual basis for disqualification.

26  
27 **Canon 3E amended effective June 18, 2003; previously amended effective June**  
28 **19, 1997, March 4, 1999 and December 13, 2000.**

CANON 4

**A JUDGE SHALL SO CONDUCT THE JUDGE'S  
QUASI-JUDICIAL AND EXTRAJUDICIAL  
ACTIVITIES AS TO MINIMIZE THE RISK OF  
CONFLICT WITH JUDICIAL OBLIGATIONS**

**A. Extrajudicial Activities in General**

**A judge shall conduct all of the judge's extrajudicial activities so that they do not**

**(1) cast reasonable doubt on the judge's capacity to act impartially;**

**(2) demean the judicial office; or**

**(3) interfere with the proper performance of judicial duties.**

**ADVISORY COMMITTEE COMMENTARY**

*Complete separation of a judge from extrajudicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives.*

*Expressions of bias or prejudice by a judge, even outside the judge's judicial activities, may cast reasonable doubt on the judge's capacity to act impartially as a judge. Expressions which may do so include jokes or other remarks demeaning individuals on the basis of a classification such as their race, sex, religion, sexual orientation, or national origin. See Canon 2C and accompanying Commentary.*

**B. Quasi-judicial and Avocational Activities**

**A judge may speak, write, lecture, teach, and participate in activities concerning legal and nonlegal subject matters, subject to the requirements of this Code.**

**ADVISORY COMMITTEE COMMENTARY**

*As a judicial officer and person specially learned in the law,\* a judge is in a unique position to contribute to the improvement of the law,\* the legal system, and the administration of justice, including revision of substantive and procedural law\* and improvement of criminal and juvenile justice. To the extent that time permits, a judge may do so, either independently or through a bar or judicial association or other group dedicated to the improvement of the law.\**

1        *It may be necessary to promote legal education programs and materials by*  
 2        *identifying authors and speakers by judicial title. This is permissible, provided such*  
 3        *use of the judicial title does not contravene Canons 2A and 2B.*

4  
 5        *Judges are not precluded by their office from engaging in other social,*  
 6        *community, and intellectual endeavors so long as they do not interfere with the*  
 7        *obligations under Canons 2C and 4A.*

8  
 9        **C. Governmental, Civic, or Charitable Activities**

10  
 11        **(1) A judge shall not appear at a public hearing or officially consult with**  
 12        **an executive or legislative body or public official except on matters concerning**  
 13        **the law,\* the legal system, or the administration of justice or in matters**  
 14        **involving the judge's private economic or personal interests.**

15  
 16        **ADVISORY COMMITTEE COMMENTARY**

17        *See Canon 2B regarding the obligation to avoid improper influence.*

18  
 19        **(2) A judge shall not accept appointment to a governmental committee or**  
 20        **commission or other governmental position that is concerned with issues of fact**  
 21        **or policy on matters other than the improvement of the law,\* the legal system,**  
 22        **or the administration of justice. A judge may, however, serve in the military**  
 23        **reserve or represent a national, state, or local government on ceremonial**  
 24        **occasions or in connection with historical, educational, or cultural activities.**

25  
 26        **ADVISORY COMMITTEE COMMENTARY**

27        *Canon 4C(2) prohibits a judge from accepting any governmental position*  
 28        *except one relating to the law,\* legal system, or administration of justice as*  
 29        *authorized by Canon 4C(3). The appropriateness of accepting extrajudicial*  
 30        *assignments must be assessed in light of the demands on judicial resources and the*  
 31        *need to protect the courts from involvement in extrajudicial matters that may prove*  
 32        *to be controversial. Judges shall not accept governmental appointments that are*  
 33        *likely to interfere with the effectiveness and independence of the judiciary, or which*  
 34        *constitute a public office within the meaning of the California Constitution, article*  
 35        *VI, section 17.*

36  
 37        *Canon 4C(2) does not govern a judge's service in a nongovernmental*  
 38        *position. See Canon 4C(3) permitting service by a judge with organizations devoted*  
 39        *to the improvement of the law,\* the legal system, or the administration of justice*  
 40        *and with educational, religious, charitable, fraternal, or civic organizations not*  
 41        *conducted for profit. For example, service on the board of a public educational*  
 42        *institution, other than a law school, would be prohibited under Canon 4C(2), but*

1 *service on the board of a public law school or any private educational institution*  
2 *would generally be permitted under Canon 4C(3).*

3  
4 **(3) Subject to the following limitations and the other requirements of this**  
5 **Code,**

6  
7 **(a) a judge may serve as an officer, director, trustee, or nonlegal advisor**  
8 **of an organization or governmental agency devoted to the improvement of the**  
9 **law,\* the legal system, or the administration of justice provided that such**  
10 **position does not constitute a public office within the meaning of the California**  
11 **Constitution, article VI, section 17;**

12  
13 **(b) a judge may serve as an officer, director, trustee, or nonlegal advisor**  
14 **of an educational, religious, charitable, fraternal, or civic organization not**  
15 **conducted for profit;**

16  
17 *ADVISORY COMMITTEE COMMENTARY*

18 *Canon 4C(3) does not apply to a judge's service in a governmental position*  
19 *unconnected with the improvement of the law,\* the legal system, or the*  
20 *administration of justice. See Canon 4C(2).*

21  
22 *Canon 4C(3) uses the phrase, "Subject to the following limitations and the*  
23 *other requirements of this Code." As an example of the meaning of the phrase, a*  
24 *judge permitted by Canon 4C(3) to serve on the board of a fraternal institution may*  
25 *be prohibited from such service by Canon 2C or 4A if the institution practices*  
26 *invidious discrimination or if service on the board otherwise casts reasonable doubt*  
27 *on the judge's capacity to act impartially as a judge.*

28  
29 *Service by a judge on behalf of a civic or charitable organization may be*  
30 *governed by other provisions of Canon 4 in addition to Canon 4C. For example, a*  
31 *judge is prohibited by Canon 4G from serving as a legal advisor to a civic or*  
32 *charitable organization.*

33  
34 *Service on the board of a homeowners' association or a neighborhood*  
35 *protective group is proper if it is related to the protection of the judge's own*  
36 *economic interests. See Canons 4D(2) and 4D(4). See Canon 2B regarding the*  
37 *obligation to avoid improper use of the prestige of a judge's office.*

38  
39 **(c) a judge shall not serve as an officer, director, trustee, or nonlegal**  
40 **advisor if it is likely that the organization**

41  
42 **(i) will be engaged in judicial proceedings that would ordinarily**  
43 **come before the judge, or**



(ii) will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member;

ADVISORY COMMITTEE COMMENTARY

*The changing nature of some organizations and of their relationship to the law\* makes it necessary for the judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the affiliation. Some organizations regularly engage in litigation to achieve their goals or fulfill their purposes. Judges should avoid a leadership role in such organizations as it could compromise the appearance of impartiality.*

(d) a judge as an officer, director, trustee, or nonlegal advisor, or as a member or otherwise

(i) may assist such an organization in planning fund raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may privately solicit funds for such an organization from other judges (excluding court commissioners, referees, retired judges, and temporary judges\*);

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law,\* the legal system, or the administration of justice;

(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or if the membership solicitation is essentially a fund-raising mechanism, except as permitted in Canon 4C(3)(d)(i);

(iv) shall not permit the use of the prestige of his or her judicial office for fund raising or membership solicitation but may be a speaker, guest of honor, or recipient of an award for public or charitable service provided the judge does not personally solicit funds and complies with Canon 4A(1), (2), and (3).

ADVISORY COMMITTEE COMMENTARY

*A judge may solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law,\* the legal system, or the administration of justice, or a nonprofit educational, religious, charitable,*

fraternal, or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism. Solicitation of funds for an organization and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control. A judge must not engage in direct, individual solicitation of funds or memberships in person, in writing, or by telephone except in the following cases: (1) a judge may solicit other judges (excluding court commissioners, referees, retired judges, court-appointed arbitrators, and temporary judges\*) for funds or memberships; (2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves; and (3) a judge who is an officer of such an organization may send a general membership solicitation mailing over the judge's signature.

Use of an organization letterhead for fund raising or membership solicitation does not violate Canon 4C(3)(d), provided the letterhead lists only the judge's name and office or other position in the organization, and designates the judge's judicial title only if other persons whose names appear on the letterhead have comparable designations. In addition, a judge must also make reasonable efforts to ensure that the judge's staff, court officials, and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.

#### **D. Financial Activities**

**(1) A judge shall not engage in financial and business dealings that**

**(a) may reasonably be perceived to exploit the judge's judicial position,**  
**or**

**(b) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to appear before the court on which the judge serves.**

#### **ADVISORY COMMITTEE COMMENTARY**

*The Time for Compliance provision of this Code (Canon 6F) postpones the time for compliance with certain provisions of this Canon in some cases.*

*A judge must avoid financial and business dealings that involve the judge in frequent transactions or continuing business relationships with persons likely to appear either before the judge personally or before other judges on the judge's court. A judge shall discourage members of the judge's family\* from engaging in*

1 *dealings that would reasonably appear to exploit the judge's judicial position or*  
 2 *that involve family members in frequent transactions or continuing business*  
 3 *relationships with persons likely to appear before the judge. This rule is necessary*  
 4 *to avoid creating an appearance of exploitation of office or favoritism and to*  
 5 *minimize the potential for disqualification.*

6  
 7 *Participation by a judge in financial and business dealings is subject to the*  
 8 *general prohibitions in Canon 4A against activities that tend to reflect adversely on*  
 9 *impartiality, demean the judicial office, or interfere with the proper performance of*  
 10 *judicial duties. Such participation is also subject to the general prohibition in*  
 11 *Canon 2 against activities involving impropriety or the appearance of impropriety*  
 12 *and the prohibition in Canon 2B against the misuse of the prestige of judicial office.*

13  
 14 *In addition, a judge must maintain high standards of conduct in all of the*  
 15 *judge's activities, as set forth in Canon 1.*

16  
 17 **(2) A judge may, subject to the requirements of this Code, hold and**  
 18 **manage investments of the judge and members of the judge's family,\* including**  
 19 **real estate, and engage in other remunerative activities. A judge shall not**  
 20 **participate in, nor permit the judge's name to be used in connection with, any**  
 21 **business venture or commercial advertising that indicates the judge's title or**  
 22 **affiliation with the judiciary or otherwise lend the power or prestige of his or**  
 23 **her office to promote a business or any commercial venture.**

24  
 25 **(3) A judge shall not serve as an officer, director, manager, or employee**  
 26 **of a business affected with a public interest, including, without limitation, a**  
 27 **financial institution, insurance company, or public utility.**

28  
 29 **ADVISORY COMMITTEE COMMENTARY**

30 *Although participation by a judge in business activities might otherwise be*  
 31 *permitted by Canon 4D, a judge may be prohibited from participation by other*  
 32 *provisions of this Code when, for example, the business entity frequently appears*  
 33 *before the judge's court or the participation requires significant time away from*  
 34 *judicial duties. Similarly, a judge must avoid participating in any business activity*  
 35 *if the judge's participation would involve misuse of the prestige of judicial office.*  
 36 *See Canon 2B.*

37  
 38 **(4) A judge shall manage personal investments and financial activities so**  
 39 **as to minimize the necessity for disqualification. As soon as reasonably possible,**  
 40 **a judge shall divest himself or herself of investments and other financial**  
 41 **interests that would require frequent disqualification.**

(5) Under no circumstance shall a judge accept a gift, bequest, or favor if the donor is a party whose interests have come or are reasonably likely to come before the judge. A judge shall discourage members of the judge's family residing in the judge's household\* from accepting similar benefits from parties who have come or are reasonably likely to come before the judge.

ADVISORY COMMITTEE COMMENTARY

*In addition to the prohibitions set forth in Canon 4D(5) regarding gifts, other laws may be applicable to judges, including, for example, Code of Civil Procedure section 170.9 and the Political Reform Act of 1974 (Gov. Code, § 81000 et seq.).*

*Canon 4D(5) does not apply to contributions to a judge's campaign for judicial office, a matter governed by Canon 5.*

*Because a gift, bequest, or favor to a member of the judge's family residing in the judge's household\* might be viewed as intended to influence the judge, a judge must inform those family members of the relevant ethical constraints upon the judge in this regard and discourage those family members from violating them. A judge cannot, however, reasonably be expected to know or control all of the financial or business activities of all family members residing in the judge's household.\**

*The application of Canon 4D(5) requires recognition that a judge cannot reasonably be expected to anticipate all persons or interests that may come before the court.*

(6) A judge shall not accept and shall discourage members of the judge's family residing in the judge's household\* from accepting a gift, bequest, favor, or loan from anyone except as hereinafter provided:

(a) any gift incidental to a public testimonial, books, tapes, and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law,\* the legal system, or the administration of justice;

(b) advances or reimbursement for the reasonable cost of travel, transportation, lodging, and subsistence which is directly related to participation in any judicial, educational, civic, or governmental program or bar-related function or activity, devoted to the improvement of the law,\* the legal system, or the administration of justice;

1 **ADVISORY COMMITTEE COMMENTARY**

2 *Acceptance of an invitation to a law-related function is governed by Canon*  
 3 *4D(6)(a); acceptance of an invitation paid for by an individual lawyer or group of*  
 4 *lawyers is governed by Canon 4D(6)(d).*

5  
 6 **(c) a gift, award, or benefit incident to the business, profession, or other**  
 7 **separate activity of a spouse or other member of the judge's family residing in**  
 8 **the judge's household,\* including gifts, awards, and benefits for the use of both**  
 9 **the spouse or other family member and the judge, provided the gift, award, or**  
 10 **benefit could not reasonably be perceived as intended to influence the judge in**  
 11 **the performance of judicial duties;**

12  
 13 **(d) ordinary social hospitality;**

14  
 15 **ADVISORY COMMITTEE COMMENTARY**

16 *Although Canon 4D(6)(d) does not preclude ordinary social hospitality*  
 17 *between members of the bench and bar, a judge should carefully weigh acceptance*  
 18 *of such hospitality to avoid any appearance of bias. See Canon 2B.*

19  
 20 **(e) a gift for a special occasion from a relative or friend, if the gift is**  
 21 **fairly commensurate with the occasion and the relationship;**

22  
 23 **ADVISORY COMMITTEE COMMENTARY**

24 *A gift to a judge, or to a member of the judge's family residing in the judge's*  
 25 *household,\* that is excessive in value raises questions about the judge's impartiality*  
 26 *and the integrity of the judicial office and might require disqualification of the*  
 27 *judge where disqualification would not otherwise be required. See, however, Canon*  
 28 *4D(6)(f).*

29 **(f) a gift, bequest, favor, or loan from a relative or close personal friend**  
 30 **whose appearance or interest in a case would in any event require**  
 31 **disqualification under Canon 3E;**

32  
 33 **(g) a loan in the regular course of business on the same terms generally**  
 34 **available to persons who are not judges;**

35  
 36 **(h) a scholarship or fellowship awarded on the same terms and based on**  
 37 **the same criteria applied to other applicants.**

38  
 39 **E. Fiduciary Activities**

40  
 41 **(1) A judge shall not serve as executor, administrator, or other personal**  
 42 **representative, trustee, guardian, attorney in fact, or other fiduciary,\* except**

for the estate, trust, or person of a member of the judge's family,\* and then only if such service will not interfere with the proper performance of judicial duties.

(2) A judge shall not serve as a fiduciary\* if it is likely that the judge as a fiduciary\* will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or minor or conservatee becomes engaged in contested proceedings in the court on which the judge serves or one under its appellate jurisdiction.

(3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary\* capacity.

#### ADVISORY COMMITTEE COMMENTARY

*The Time for Compliance provision of this Code (Canon 6F) postpones the time for compliance with certain provisions of this Canon in some cases.*

*The restrictions imposed by this Canon may conflict with the judge's obligation as a fiduciary.\* For example, a judge shall resign as trustee if detriment to the trust would result from divestiture of trust holdings the retention of which would place the judge in violation of Canon 4D(4).*

### F. Service as Arbitrator or Mediator

A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.\*

#### ADVISORY COMMITTEE COMMENTARY

*Canon 4F does not prohibit a judge from participating in arbitration, mediation, or settlement conferences performed as part of his or her judicial duties.*

### G. Practice of Law

A judge shall not practice law.

#### ADVISORY COMMITTEE COMMENTARY

*This prohibition refers to the practice of law in a representative capacity and not in a pro se capacity. A judge may act for himself or herself in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. However, in so doing, a judge must not abuse the prestige of office to advance the interests of the judge or member of the judge's family.\* See Canon 2B.*

### H. Compensation and Reimbursement

1  
2       **A judge may receive compensation and reimbursement of expenses as**  
3 **provided by law\* for the extrajudicial activities permitted by this Code, if the**  
4 **source of such payments does not give the appearance of influencing the judge's**  
5 **performance of judicial duties or otherwise give the appearance of impropriety.**  
6

7       **(1) Compensation shall not exceed a reasonable amount nor shall it**  
8 **exceed what a person who is not a judge would receive for the same activity.**  
9

10       **(2) Expense reimbursement shall be limited to the actual cost of travel,**  
11 **food, lodging, and other costs reasonably incurred by the judge and, where**  
12 **appropriate to the occasion, by the judge's spouse or guest. Any payment in**  
13 **excess of such an amount is compensation.**  
14

15 *ADVISORY COMMITTEE COMMENTARY*

16       *Judges should be aware of the statutory limitations on accepting gifts,*  
17 *including honoraria.*